

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

JOHN HARPER and LANA KUDINA,

06-CV-1457-HU

Plaintiffs,

ORDER

v.

COLDWELL BANKER BARBARA SUE
SEAL PROPERTIES and PYRAMID
HOMES INCORPORATED,

Defendants.

JOHN HARPER
LANA KUDINA
P.O. Box 16566
Portland, OR 97292

Plaintiffs, *Pro Se*

MARTHA J. HODGKINSON
CALLISTE J. KORACH
Hoffman, Hart & Wagner, LLP
Twentieth Floor
1000 S.W. Broadway
Portland, OR 97205
(503) 222-4499

Attorneys for Defendant Coldwell Banker Barbara
Sue Seal Properties

ALBERT F. SCHLOTFELDT

Duggan, Schlotfeldt & Welch, PLLC
900 Washington Street, Suite 1020
Vancouver, WA 98666-0570
(360) 699-1201

Attorneys for Defendant Pyramid Homes,
Incorporated

BROWN, Judge.

Magistrate Judge Dennis James Hubel issued Findings and Recommendation (#36) on February 14, 2007, in which he recommended the Court grant Defendant Coldwell Banker's Motion for Award of Attorney Fees (#33) in the amount of \$3,317.00, grant in part and deny in part Defendant Pyramid Homes's Motion for Award of Attorney Fees (#29) in the amount of \$5,880.30, and deny Defendant Coldwell Banker's Cost Bill (#32). Plaintiff filed timely objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Bernhardt*, 840 F.2d 1441, 1444 (9th Cir. 1988); *McDonnell Douglas Corp. v. Commodore Business Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert. denied*, 455 U.S. 920 (1982).

This Court has carefully considered the Plaintiff's Objections and concludes they do not provide a basis to modify the Findings and Recommendation.

This Court also has reviewed the pertinent portions of the record *de novo*. The Magistrate Judge recommended the Court should decline to award Defendant Pyramid Homes 2.4 hours of Quinn Posner's time. The Findings and Recommendation set out in detail the denied entries for Posner's time, which actually total 2.0 hours: 0.2 hours on October 20, 2006; 0.4 hours on October 25, 2006; 0.5 hours on October 27, 2006; 0.7 on November 13, 2006; and 0.2 on November 16, 2006. The Court, therefore, awards Pyramid Homes a total of \$5,945.10 as attorneys' fees.

The Court adopts the Magistrate Judge's recommendation with respect to the amount of attorneys' fees to be awarded to Coldwell Banker and as to Coldwell Banker's Bill of Costs.

CONCLUSION

The Court **ADOPTS as modified** Magistrate Judge Hubel's Findings and Recommendation (#36) and, accordingly, **GRANTS** Defendant Coldwell Banker's Motion for Award of Attorney Fees (#33) in the amount of \$3,137, **GRANTS in part** and **DENIES in part** Defendant Pyramid Homes's Motion for Award of Attorney Fees (#29) in the amount of \$5,945.10, and **DENIES** Defendant Coldwell

Banker's Cost Bill (#32).

IT IS SO ORDERED.

DATED this 10th day of April, 2007.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge